

Bountiful City
Administrative Committee Minutes
December 7, 2009
5:00 P.M.

Present: Chairman Aric Jensen; Engineering Department - Todd Christensen; Committee Member - John "Marc" Knight; and Recording Secretary - Cindy Gruendell.

Excused: Assistant City Engineer - Lloyd Cheney; Assistant Planner - Dustin Wright.

1. Chairman Jensen opened the meeting at 5:01 pm and had everyone present introduce themselves.
2. Consider approval of minutes for November 16, 2009 and November 23, 2009.

Mr. Cheney's proposed changes for the minutes of November 16, 2009 were read to the Committee.

Mr. Knight made a motion to approve the minutes for the November 16th and 23rd, 2009 Administrative Committee Meeting as amended. Mr. Christensen seconded the motion. Voting was unanimous in favor.

3. **Public Hearing** - Consider a Conditional Use Permit to allow an Accessory In-Law Apartment at 385 East 1500 South, Samuel J. Bawden, applicant.

Mr. Bawden, applicant was present. Mr. Jensen presented the staff memo.

The property is located in the single family R-4 zone. The Applicant would like to provide the use of his basement to his sister-in-law's family. Because of the zoning and the desire to have an additional living unit in the basement for family to live in, the applicant is applying for a Conditional Use Permit for an Accessory In-law Apartment to comply with Bountiful City Ordinances.

Staff finds that the applicant meets the requirements for an Accessory In-Law Apartment in that: The exterior of the single-family dwelling is consistent with a single-family residence, the entrance to the lower unit is in the back of the home, the side entrance is going to be bricked in, there is common access between upstairs and downstairs units, and the driveway has been widened to accommodate parking of the two additional vehicles. The applicant plans to add an additional set of trash and recycling bins, which

will be stored back by the garage.

Staff recommends approval of a Conditional Use Permit for an Accessory-In-Law Apartment to the Committee with the following conditions:

1. Any issues identified by the Administrative Committee are met.
2. The requirements set forth in the City Ordinance must be continually met.

Mr. Bawden explained that he is requesting this because he has family that needs a place to live. They purchased the property with the Mother-in-Law Apartment already in it. They have made some improvements to the home and driveway. There is a door between the two living areas but there is also a separate entrance to the Mother-in-Law apartment. There is only one set of utilities for the dwelling. He spoke with Dustin Wright about having a family member live with them and was told that he would need to request this Conditional Use Permit to make it legal.

The public hearing was opened and closed without any comments.

Mr. Christensen made a motion to approve the Conditional Use Permit for a Mother-in-Law Apartment at 385 East 1500 South for James Bawden with the conditions in the Staff Report. Mr. Knight seconded the motion. Voting was unanimous.

4. **Public Hearing** - Consider a Conditional Use Permit for an excavating construction company at 2484 South Davis Blvd, Eugene M. Nielsen, applicant.

Eugene Nielsen, applicant, and Bart Nielsen, 226 East 1200 South, Centerville, co-owner of Jack Nielsen Construction, and Pam Nielsen-Brown, property owner of the two adjacent lots to 2484 South Davis Blvd were present. Chairman Jensen presented the Staff Report.

The applicant's home is in a Single-Family R-4 zone. The family owns two vacant lots to the south of the applicant's home. These lots have been used to store his family's construction equipment for many years. The home is used for paperwork for the business.

The Lewis Estates Subdivision was approved on June 2, 1998 by the Planning Commission approved, and on June 10, 1998 by the City Council. The applicant's home at 2484 South Davis Blvd. was built in this subdivision in 2005-2006. A business license at 232 E. 2450 S. was held by the father, Jack Nielsen, from 1993 to 2001. From 2001 until now, this business has been operating without a business license with the City. Construction equipment is parked on the dirt/ground and not on an approved parking surface such as asphalt or concrete nor is there an approved driveway. A large carport type structure was built without a building permit on the vacant lots where the construction equipment is stored.

Bart Nielsen, who does not reside at the subject property, meets at the home/vacant lots

to pick up equipment and/or his brother.

Staff finds that, with certain conditions, the applicant would meet the requirements for a Conditional Use permit. Staff recommends approval of a Conditional Use Permit for a Home Occupation Business License with the following conditions:

1. The applicant is to keep a current Bountiful City Home Business license.
2. The removal of all construction equipment and other storage located on the vacant lots.
3. The removal of structures on vacant lot or applicant shall acquire building permits for them.
4. No employees shall meet at the property.
5. The applicant has signed and must comply with all the conditions and requirements listed in the Bountiful City Code concerning a Home Occupation Businesses. (14-17-105)
6. This Conditional Use Permit is just for this individual at this site and is not transferable.

The applicants explained that they have stored equipment on the property since 1956 and purchased the property 10 -12 years ago. They explained that they purchased it prior to the property being subdivided.

Mr. Jensen asked if their names appeared on the subdivision plat. Eugene Nielsen said that they were asked to sign the subdivision plat after they purchased the land so Smoot could put covenants on it and the family refused.

Mrs. Brown explained to the Committee how long and why the equipment is stored there. She also talked about the relationship between the Lewis family and her family and how they came to own the property. She explained that her father passed away some time ago and that her brothers and her mother have been running the business since.

Mr. Jensen explained that from his research it appears that Foss Lewis subdivided this ground into a residential subdivision, at which point all construction and non-residential uses should have stopped. The Subdivision Plat does not reflect the Nielsen's as property owners, so it appears that they purchased the lots after they were subdivided. However, he would like to do more research. He recommended continuing this item until the Committee has adequate time to review the matter.

The public hearing was opened and closed without any comments.

Mr. Knight made a motion to continue this item until after January 1, 2010. Mr. Christensen seconded the motion. Voting was unanimous in favor.

5. **Public Hearing** - Consider a variance for cuts and fills on slopes over 30% at 4772 South Summerwood Drive, Tom Durrant, applicant.

Tom Durrant, applicant was present. Aric Jensen presented the Staff Report.

The property is located in the Residential Foothill R-F zone. On January 28, 2008, an amended site plan received approval for a variance to build on slopes over 30% and for cuts and fills over 10 ft. It came to the City's attention that this plan was not being followed. The applicant has submitted a new site plan showing the existing and proposed construction needing a variance for cuts and fills on slopes greater than 30%.

Some existing walls on 30% + areas will be removed or relocated out of that slope range or to a less intrusive area in that range area.

For construction purposes, the area near the sub-basement on the south-east side of the home needs cuts and fills to provide a safe space to work. Due to the slope, a hardship exists in this area. To avoid the hardship, a variance is needed for construction and maintenance on the home.

The retaining wall on the south-west side of the property in the 30% + slope area shown on the site plan is only a few feet onto the 30% slope area. If moved the visual appearance would not change much.

Staff finds that an additional variance would be needed to provide an area around the home suitable for constructing and maintaining the home. Staff recommends approval by the Committee for a Variance for cuts and fill on slopes 30% and greater as shown on the site plan with the following conditions.

1. The cuts and fills should be the least intrusive to provide relief from the hardship.
2. Approved site plan must be followed and required permits shall be obtained.
3. Removal of indicated rock walls must be done in a manner pleasing to the City Engineer and Planning Director.
4. Any red lines by staff be followed.

Todd Christensen explained the red lines that the engineering department suggests. The original site plan did not show the wall around the sub-basement and some of the retaining walls.

The Committee and the applicant discussed the original site plan, proposed redline site plan, and the pictures of the construction site.

Mr. Durrant explained that prior to building the wall he had Mark Christensen, a geo-tech Engineer, and the excavator do measuring and acquire a building permit. He thought everything had been taken care of, but that is where the mis-step happened. He thought

that the retaining wall permit, that was acquired, had all the retaining walls on it. He has since discovered that one of the walls was not on the site plan. After the Engineering Department informed him of the error, he hired an engineer to locate all the house corners and walls to ensure that the house is located in the right spot and provide a recommendation for a solution to the issues.

Mr. Christensen continued to explain the redlines to the proposed site plan. It was suggested that the larger middle wall stay in place because of the slope in that area and to realign the eastern end of the lower wall to minimize the disturbance in the over 30% slope areas.

Mr. Durrant explained the area that wraps around the garage was disturbed for the digging of the footings and foundation. Now that it has been back filled, a workable area is needed for machinery and scaffolding. He is requesting to have the 12 foot working area around that corner for the scaffolding and to safely be able to work/walk around it.

The Committee discussed how significantly having the 8 ft versus the 12 ft working area would affect the already disturbed land.

The public hearing was opened and closed without any comments.

Mr. Jensen made a motion to approve the variance to construct retaining walls in areas with slopes over 30% at 4772 South Summerwood Drive as shown on the attached map and in accordance with the following: using the existing gray retaining walls shown on the proposed site plan plus a small tail approximately 15 - 20 ft long that goes eastward and curves to the north allowing approximately 12 ft of radius off of the southeast corner of the garage. Remove the walls as shown to be removed and leaving the existing ones in place. Mr. Knight seconded the motion. Voting was unanimous in favor.

There were no other comments and the meeting adjourned at 5:55 p.m.